

**House File 2114 - Introduced**

HOUSE FILE 2114

BY WILLS

**A BILL FOR**

1 An Act relating to unlawful aliens and law enforcement and  
2 providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   80.41   Unlawful alien enforcement  
2 fund.

3     1. An unlawful alien enforcement fund is created in the  
4 state treasury under the control of the department, subject to  
5 appropriation by the general assembly. The fund shall consist  
6 of civil penalties collected and deposited into the fund under  
7 section 823.7 and moneys appropriated by the general assembly  
8 to the fund. Moneys in the fund shall be used by the department  
9 for enforcement of laws relating to unlawful aliens and for  
10 incarceration costs for unlawful aliens.

11    2. Notwithstanding section 12C.7, subsection 2, interest or  
12 earnings on moneys credited to the unlawful alien enforcement  
13 fund shall be credited to the unlawful alien enforcement fund.  
14 Notwithstanding section 8.33, moneys credited to the unlawful  
15 alien enforcement fund at the end of a fiscal year shall not  
16 revert to any other fund but shall remain in the fund for  
17 purposes of the fund.

18    Sec. 2. NEW SECTION.   93.1   Definitions.

19    As used in this chapter, unless the context otherwise  
20 requires:

21    1. "*Agency*" means an agency, department, board, or  
22 commission of this state or a political subdivision that issues  
23 a license for purposes of operating a business in this state.

24    2. "*Economic development incentive*" means a grant, loan, or  
25 performance-based incentive awarded by a government entity of  
26 this state. "*Economic development incentive*" does not include a  
27 tax credit or tax incentive program.

28    3. "*Employ*" means hiring or continuing to employ an  
29 individual to perform services.

30    4. "*Employee*" means an individual who provides services  
31 or labor for an employer in this state for wages or other  
32 remuneration. "*Employee*" does not include an independent  
33 contractor.

34    5. "*Employer*" means a person that transacts business in  
35 this state, that has a license issued by an agency in this

1 state, and that employs one or more employees in this state.  
2 "*Employer*" includes this state, a political subdivision of  
3 this state, and a self-employed individual. In the case of  
4 an independent contractor, "*employer*" means the independent  
5 contractor and does not mean the person or organization that  
6 uses the contract labor.

7 6. "*E-verify program*" means the employment eligibility  
8 verification program as jointly administered by the United  
9 States department of homeland security and the United States  
10 social security administration or any successor program.

11 7. "*Government entity*" means this state or a political  
12 subdivision of this state that receives and uses tax revenues.

13 8. "*Independent contractor*" means a person that carries on  
14 an independent business, that contracts to do a piece of work  
15 according to the person's own means and methods and that is  
16 subject to control only as to results. Whether a person is an  
17 independent contractor is determined on a case-by-case basis  
18 through various factors, including whether the person does any  
19 of the following:

20 a. Supplies tools or materials.

21 b. Makes services available to the general public.

22 c. Works or may work for a number of clients at the same  
23 time.

24 d. Has an opportunity for profit or loss as a result of  
25 labor or service provided.

26 e. Invests in the facilities for work.

27 f. Directs the order or sequence in which the work is  
28 completed.

29 g. Determines the hours when the work is completed.

30 9. "*Knowingly employ an unauthorized alien*" means the  
31 actions described in 8 U.S.C. §1324a, and shall be interpreted  
32 consistently with 8 U.S.C. §1324a and any applicable federal  
33 regulations.

34 10. "*License*" means an agency permit, certificate, approval,  
35 registration, charter, or similar form of authorization, other

1 than a professional license, that is required by law and that  
2 is issued by an agency for the purposes of operating a business  
3 in this state, including by a foreign corporation.

4 11. "*Social security number verification service*" means  
5 the program administered by the United States social security  
6 administration or any successor program.

7 12. "*Unauthorized alien*" means an alien who does not have  
8 the legal right or authorization under federal law to work in  
9 the United States as described in 8 U.S.C. §1324a(h)(3).

10 Sec. 3. NEW SECTION. 93.2 **Knowingly or intentionally**  
11 **employing unauthorized aliens.**

12 1. *Knowingly or intentionally employing unauthorized aliens*  
13 *prohibited.* An employer shall not knowingly or intentionally  
14 employ an unauthorized alien. If an employer uses a contract,  
15 subcontract, or other independent contractor agreement to  
16 obtain the labor of an alien in this state, and the employer  
17 knowingly or intentionally contracts with an unauthorized  
18 alien or with a person who employs or contracts with an  
19 unauthorized alien to perform the labor, the employer violates  
20 this subsection.

21 2. *Complaints.*

22 a. The attorney general shall prescribe a complaint form  
23 for a person to allege a violation of subsection 1. The  
24 complainant shall not be required to list the complainant's  
25 social security number on the complaint form or to have the  
26 complaint form notarized. Complaints shall be submitted to the  
27 attorney general or a county attorney. A complaint that is  
28 submitted to a county attorney shall be submitted to the county  
29 attorney in the county in which the alleged unauthorized alien  
30 is or was employed by the employer. This subsection shall not  
31 be construed to prohibit the filing of anonymous complaints  
32 that are not submitted on a prescribed complaint form.

33 b. On receipt of a complaint on a prescribed complaint form  
34 that an employer allegedly knowingly or intentionally employs  
35 or employed an unauthorized alien, the attorney general or

1 county attorney shall investigate whether the employer has  
2 violated subsection 1. If a complaint is received but is not  
3 submitted on a prescribed complaint form, the attorney general  
4 or county attorney may investigate whether the employer has  
5 violated subsection 1.

6     *c.* The attorney general or county attorney shall not  
7 investigate complaints that are based solely on race, color,  
8 or national origin. The county sheriff or any other local law  
9 enforcement agency may assist in investigating a complaint.  
10 When investigating a complaint, the attorney general or county  
11 attorney shall verify the work authorization of the alleged  
12 unauthorized alien with the federal government pursuant to 8  
13 U.S.C. §1373(c). A state, county, or local official shall not  
14 attempt to independently make a final determination on whether  
15 an alien is authorized to work in the United States.

16     *d.* A person who knowingly files a false and frivolous  
17 complaint under this subsection is guilty of a simple  
18 misdemeanor.

19     3. *Required notifications.*

20     *a.* If, after an investigation, the attorney general or  
21 county attorney determines that the complaint is not false and  
22 not frivolous, the attorney general or county attorney shall  
23 notify the following entities of the unauthorized alien:

- 24         (1) The United States immigration and customs enforcement.  
25         (2) The local law enforcement agency.

26     *b.* The attorney general shall notify the appropriate county  
27 attorney to bring an action pursuant to subsection 4 if the  
28 complaint was originally filed with the attorney general.

29     4. *Court action required.* An action for a violation of  
30 subsection 1 shall be brought against the employer by the  
31 county attorney in the district court of the county where the  
32 unauthorized alien employee is or was employed by the employer.  
33 The district court shall expedite the action, including  
34 assigning a hearing at the earliest practicable date.

35     5. *Court order — first violation.* On a finding of a first

1 violation as described in subsection 7, the court shall require  
2 by order all of the following:

3     *a.* The employer shall terminate the employment of all  
4 unauthorized aliens.

5     *b.* (1) For a knowing violation, the employer shall be  
6 subject to a three-year probationary period for the business  
7 location where the unauthorized alien performed work.

8     (2) For an intentional violation, the employer shall be  
9 subject to a five-year probationary period for the business  
10 location where the unauthorized alien performed work.

11     (3) During the probationary period, the employer shall file  
12 quarterly reports on the form prescribed in section 252G.3 with  
13 the county attorney for each new employee who is hired by the  
14 employer at the business location where the unauthorized alien  
15 performed work.

16     *c.* The employer shall file a signed sworn affidavit with  
17 the county attorney within three business days after the order  
18 is issued. The affidavit shall state that the employer has  
19 terminated the employment of all unauthorized aliens in this  
20 state and that the employer will not knowingly or intentionally  
21 employ an unauthorized alien in this state.

22     (1) The court shall order the appropriate agencies to  
23 suspend all licenses that are held by the employer if the  
24 employer fails to file a signed sworn affidavit with the county  
25 attorney within three business days after the order is issued.  
26 All licenses that are suspended shall remain suspended until  
27 the employer files a signed sworn affidavit with the county  
28 attorney. Upon filing of the affidavit, the suspended licenses  
29 shall be reinstated immediately by the appropriate agencies.

30     (2) Licenses that are subject to suspension under this  
31 paragraph "c" are all licenses that are held by the employer  
32 specific to the business location where the unauthorized alien  
33 performed work. If the employer does not hold a license  
34 specific to the business location where the unauthorized alien  
35 performed work, but a license is necessary to operate the

1 employer's business in general, the licenses that are subject  
2 to suspension under this paragraph "c" are all licenses that  
3 are held by the employer at the employer's primary place of  
4 business. On receipt of the court's order, the appropriate  
5 agencies shall suspend the licenses according to the court's  
6 order. The court shall send a copy of the court's order to the  
7 attorney general and the attorney general shall maintain the  
8 copy pursuant to subsection 8.

9 (3) For a knowing violation, the court may order the  
10 appropriate agencies to suspend all licenses described in this  
11 paragraph "c" that are held by the employer for not more than  
12 ten business days. For an intentional violation, the court  
13 shall order the appropriate agencies to suspend all licenses  
14 described in this paragraph "c" that are held by the employer  
15 for a minimum of ten business days. The court shall base its  
16 decision to suspend under this subparagraph on any evidence or  
17 information submitted to it during the action for a violation  
18 of subsection 1 and shall consider the following factors, if  
19 relevant:

20 (a) The number of unauthorized aliens employed by the  
21 employer.

22 (b) Any prior misconduct by the employer.

23 (c) The degree of harm resulting from the violation.

24 (d) Whether the employer made good-faith efforts to comply  
25 with any applicable requirements.

26 (e) The duration of the violation.

27 (f) The role of the directors, officers, or principals of  
28 the employer in the violation.

29 (g) Any other factors the court deems appropriate.

30 6. *Court order — second violation.* For a second violation,  
31 as described in subsection 7, the court shall order the  
32 appropriate agencies to permanently revoke all licenses that  
33 are held by the employer specific to the business location  
34 where the unauthorized alien performed work. If the employer  
35 does not hold a license specific to the business location

1 where the unauthorized alien performed work, but a license  
2 is necessary to operate the employer's business in general,  
3 the court shall order the appropriate agencies to permanently  
4 revoke all licenses that are held by the employer at the  
5 employer's primary place of business. On receipt of the order,  
6 the appropriate agencies shall immediately revoke the licenses.

7     7. *Violations defined.*

8     a. The violation shall be considered a first violation by  
9 an employer at a business location if the violation did not  
10 occur during a probationary period ordered by the court under  
11 subsection 5, paragraph "b", for that employer's business  
12 location.

13     b. The violation shall be considered a second violation by  
14 an employer at a business location if the violation occurred  
15 during a probationary period ordered by the court under  
16 subsection 5, paragraph "b", for that employer's business  
17 location.

18     8. *Attorney general database.* The attorney general shall  
19 maintain copies of court orders that are received pursuant to  
20 subsection 5, paragraph "c", and shall maintain a database  
21 of the employers and business locations that have a first  
22 violation of subsection 1 and make the court orders available  
23 on the attorney general's internet site.

24     9. *Federal determination governs.* In determining whether  
25 an employee is an unauthorized alien, the court shall consider  
26 only the federal government's determination contained in  
27 its response to an inquiry pursuant to 8 U.S.C. §1373(c).  
28 The federal government's determination creates a rebuttable  
29 presumption of the employee's lawful status. The court may  
30 take judicial notice of the federal government's determination  
31 and may request the federal government to provide automated or  
32 testimonial verification pursuant to 8 U.S.C. §1373(c).

33     10. *E-verify rebuttable presumption.* For the purposes of  
34 this section, proof of verifying the employment authorization  
35 of an employee through the e-verify program creates a



1 rebuttable presumption that an employer did not knowingly or  
2 intentionally employ an unauthorized alien.

3 11. *Good-faith compliance.* For the purposes of this  
4 section, an employer that establishes that it has complied  
5 in good faith with the requirements of 8 U.S.C. §1324a(b)  
6 establishes an affirmative defense that the employer did not  
7 knowingly or intentionally employ an unauthorized alien. An  
8 employer is considered to have complied with the requirements  
9 of 8 U.S.C. §1324a(b), notwithstanding an isolated, sporadic,  
10 or accidental technical or procedural failure to meet the  
11 requirements, if there is a good-faith attempt to comply with  
12 the requirements.

13 12. *Entrapment as affirmative defense.*

14 a. It is an affirmative defense to a violation of subsection  
15 1 that the employer was entrapped. To claim entrapment, the  
16 employer must admit by the employer's testimony or other  
17 evidence the substantial elements of the violation. An  
18 employer who asserts an entrapment defense has the burden  
19 of proving all of the following by a preponderance of the  
20 evidence:

21 (1) The idea of committing the violation started with law  
22 enforcement officers or their agents rather than with the  
23 employer.

24 (2) The law enforcement officers or their agents urged and  
25 induced the employer to commit the violation.

26 (3) The employer was not predisposed to commit the violation  
27 before the law enforcement officers or their agents urged and  
28 induced the employer to commit the violation.

29 b. An employer does not establish entrapment if the employer  
30 was predisposed to violate subsection 1 and the law enforcement  
31 officers or their agents merely provided the employer with an  
32 opportunity to commit the violation. It is not entrapment for  
33 law enforcement officers or their agents merely to use a ruse  
34 or to conceal their identity. The conduct of law enforcement  
35 officers and their agents may be considered in determining if

1 an employer has proven entrapment.

2     Sec. 4. NEW SECTION. 93.3 E-verify program — employer  
3 participation.

4     1. An employer, after hiring an employee, shall verify the  
5 employment eligibility of the employee through the e-verify  
6 program and shall keep a record of the verification for the  
7 duration of the employee's employment or at least three years,  
8 whichever is longer.

9     2. In addition to any other requirement for an employer to  
10 receive an economic development incentive from a government  
11 entity, the employer shall register with and participate  
12 in the e-verify program. Before receiving the economic  
13 development incentive, the employer shall provide proof to the  
14 government entity that the employer is registered with and  
15 is participating in the e-verify program. If the government  
16 entity determines that the employer is not complying with this  
17 subsection, the government entity shall notify the employer  
18 by certified mail of the government entity's determination  
19 of noncompliance and the employer's right to appeal the  
20 determination. On a final determination of noncompliance,  
21 the employer shall repay all moneys received as an economic  
22 development incentive to the government entity within thirty  
23 days of the final determination.

24     3. Every three months, the attorney general shall request  
25 from the United States department of homeland security a list  
26 of employers from this state that are registered with the  
27 e-verify program. On receipt of the list of employers, the  
28 attorney general shall make the list available on the attorney  
29 general's internet site.

30     Sec. 5. NEW SECTION. 321.518 Unlawful aliens — vehicle  
31 immobilization or impoundment.

32     1. For purposes of this section:

33     a. "*Immobilization*" means the installation of a device in  
34 a motor vehicle that completely prevents a motor vehicle from  
35 being operated, or the installation of an ignition interlock

1 device of a type approved by the commissioner of public safety.

2     *b.* "Impoundment" means the process of seizure and  
3 confinement within an enclosed area of a motor vehicle, for the  
4 purpose of restricting access to the vehicle.

5     2. A peace officer shall cause the removal and either  
6 immobilization or impoundment of a vehicle if the peace officer  
7 determines that a person is driving the vehicle while any of  
8 the following applies:

9     *a.* In furtherance of the illegal presence of an alien in  
10 the United States and in violation of a criminal offense, the  
11 person is transporting or moving or attempting to transport or  
12 move an alien in this state in a vehicle if the person knows or  
13 recklessly disregards the fact that the alien has come to, has  
14 entered, or remains in the United States in violation of law.

15     *b.* The person is concealing, harboring, or shielding  
16 or attempting to conceal, harbor, or shield from detection  
17 an alien in this state in a vehicle if the person knows or  
18 recklessly disregards the fact that the alien has come to,  
19 entered, or remains in the United States in violation of law.

20     Sec. 6. NEW SECTION. 823.1 Interference with enforcement  
21 prohibited.

22     An official or agency of this state or a political  
23 subdivision of this state shall not limit or restrict the  
24 enforcement of federal immigration laws to less than the full  
25 extent permitted by federal law.

26     Sec. 7. NEW SECTION. 823.2 Determination of immigration  
27 status.

28     For a lawful contact made by a law enforcement official or  
29 a law enforcement agency of this state or a law enforcement  
30 official or a law enforcement agency of a political subdivision  
31 of this state where reasonable suspicion exists that a person  
32 is an alien who is unlawfully present in the United States,  
33 a reasonable attempt shall be made, when practicable, to  
34 determine the immigration status of the person, except if the  
35 determination may hinder or obstruct an investigation. A law

1 enforcement official or agency of this state or a political  
2 subdivision of this state shall not solely consider race,  
3 color, or national origin in implementing the requirements of  
4 this section except to the extent permitted by the Constitution  
5 of the United States or the Constitution of the State of Iowa.  
6 A person is presumed to not be an alien who is unlawfully  
7 present in the United States if the person provides to the law  
8 enforcement officer or agency any of the following:

- 9 1. A valid Iowa driver's license.
- 10 2. A valid Iowa nonoperator's identification card.
- 11 3. A valid tribal enrollment card or other form of tribal  
12 identification.
- 13 4. A valid United States, state, or local government-issued  
14 identification if the government entity issuing the document  
15 requires proof of legal presence in the United States before  
16 issuance.

17 Sec. 8. NEW SECTION. 823.3 Notification of federal  
18 authority.

19 If an alien who is unlawfully present in the United States is  
20 convicted of a violation of state or local law, on discharge  
21 from imprisonment or on the assessment of a monetary obligation  
22 that is imposed, an official or agency of this state or a  
23 political subdivision of this state shall immediately notify  
24 the United States immigration and customs enforcement or the  
25 United States customs and border protection.

26 Sec. 9. NEW SECTION. 823.4 Transportation of unlawful  
27 aliens.

28 Notwithstanding any other provision of law, a law  
29 enforcement agency may securely transport an alien for whom the  
30 law enforcement agency has received verification that the alien  
31 is unlawfully present in the United States and who is in the  
32 law enforcement agency's custody to a federal facility in this  
33 state or to any other point of transfer into federal custody  
34 that is outside the jurisdiction of the law enforcement agency.  
35 A law enforcement agency shall obtain judicial authorization

1 before securely transporting an alien who is unlawfully present  
2 in the United States to a point of transfer that is outside of  
3 this state.

4     Sec. 10. NEW SECTION.   **823.5 Use of information for official**  
5 **purpose.**

6     Except as provided in federal law, an official or agency  
7 of this state or a political subdivision of this state  
8 shall not be prohibited or in any way be restricted from  
9 sending, receiving, or maintaining information relating to  
10 the immigration status, lawful or unlawful, of a person or  
11 exchanging that information with any other federal, state, or  
12 local governmental entity for any of the following official  
13 purposes:

14     1. Determining eligibility for a public benefit, service,  
15 or license provided by the federal, this state, or a local or  
16 other governmental subdivision of this state.

17     2. Verifying a claim of residence or domicile if  
18 determination of residence or domicile is required under the  
19 laws of this state or a judicial order issued pursuant to a  
20 civil or criminal proceeding in this state.

21     3. If the person is an alien, determining whether the person  
22 is in compliance with the federal registration laws prescribed  
23 by 8 U.S.C. §1301-1306.

24     4. Communicating with a federal government entity pursuant  
25 to 8 U.S.C. §1373 or 8 U.S.C. §1644.

26     Sec. 11. NEW SECTION.   **823.6 Civil suit and penalty.**

27     A person who is a legal resident of this state may bring an  
28 action in district court to challenge an official or agency of  
29 this state or a political subdivision of this state that adopts  
30 or implements a policy or practice that limits or restricts  
31 the enforcement of federal immigration laws to less than the  
32 full extent permitted by federal law. If a judicial finding is  
33 made that an entity has violated this chapter, the court shall  
34 order that the entity pay a civil penalty of not less than  
35 one thousand dollars and not more than five thousand dollars

1 for each day that the policy has remained in effect after the  
2 filing of an action pursuant to this section.

3     Sec. 12. NEW SECTION.   **823.7 Remittance of civil penalty.**

4     A court shall collect the civil penalty prescribed in  
5 section 823.6 and remit the civil penalty to the treasurer  
6 of state for deposit in the unlawful alien enforcement fund  
7 created in section 80.41.

8     Sec. 13. NEW SECTION.   **823.8 Court costs and attorney fees.**

9     The court may award court costs and reasonable attorney  
10 fees to a person or an official or agency of this state or  
11 a political subdivision of this state that prevails by an  
12 adjudication on the merits in a proceeding brought pursuant to  
13 section 823.6.

14    Sec. 14. NEW SECTION.   **823.9 Indemnification.**

15    A law enforcement officer shall be indemnified by the  
16 officer's agency against reasonable costs and expenses,  
17 including attorney fees, incurred by the officer in connection  
18 with an action, suit, or proceeding brought pursuant to this  
19 chapter in which the officer may be a defendant by reason  
20 of the officer being or having been a member of the law  
21 enforcement agency, except in relation to matters in which the  
22 officer is adjudged to have acted in bad faith.

23    Sec. 15. NEW SECTION.   **823.10 Consistency with existing law.**

24    This chapter shall be implemented and administered in a  
25 manner consistent with federal laws regulating immigration,  
26 protecting the civil rights of all persons, and respecting the  
27 privileges and immunities of United States citizens.

28    Sec. 16. **IMPLEMENTATION OF ACT.**

29    1. This Act shall be implemented and administered in a  
30 manner consistent with federal laws regulating immigration,  
31 protecting the civil rights of all persons, and respecting the  
32 privileges and immunities of United States citizens.

33    2. Section 25B.2, subsection 3, shall not apply to this Act.

34                                   **EXPLANATION**

35           The inclusion of this explanation does not constitute agreement with

1           the explanation's substance by the members of the general assembly.

2       This bill relates to unlawful aliens and law enforcement in  
3 Iowa.

4       UNLAWFUL ALIEN IMMIGRATION FUND. The bill creates an  
5 unlawful alien enforcement fund in the state treasury under  
6 the control of the department of public safety, subject to  
7 appropriation by the general assembly. The bill provides  
8 that the fund will consist of certain penalties, as well as  
9 moneys appropriated by the general assembly. The bill requires  
10 the moneys in the fund to be used for enforcement of laws  
11 relating to unlawful aliens and for incarceration costs for  
12 unlawful aliens. Interest or earnings on moneys credited  
13 to the unlawful alien enforcement fund will be credited to  
14 the unlawful alien enforcement fund. Moneys credited to the  
15 unlawful alien enforcement fund at the end of a fiscal year  
16 will not revert to any other fund but will remain in the  
17 unlawful alien enforcement fund.

18       EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED. The bill  
19 provides definitions relating to employment of unauthorized  
20 aliens. The bill prohibits employers that transact business  
21 in Iowa and that have a business license issued by an agency  
22 in Iowa from knowingly or intentionally employing unauthorized  
23 aliens. The bill directs the attorney general to prescribe a  
24 complaint form for alleged violations of the prohibition. The  
25 bill provides that complaints may be submitted to the attorney  
26 general or the county attorney in the county in which the  
27 alleged unauthorized alien is or was employed by the employer.  
28 The bill directs the attorney general or county attorney to  
29 investigate complaints, and to verify the work authorization  
30 of an alleged unauthorized alien with the federal government.  
31 The bill prohibits the attorney general or county attorney  
32 from investigating complaints that are based solely on race,  
33 color, or national origin. The bill allows a county sheriff  
34 or other local law enforcement to assist in an investigation.  
35 The bill provides that a person who knowingly files a false and

1 frivolous complaint is guilty of a simple misdemeanor, which is  
2 punishable by confinement for no more than 30 days or a fine of  
3 at least \$65 but not more than \$625 or by both.

4 The bill requires the attorney general or county attorney  
5 to notify United States immigration and customs enforcement,  
6 the local law enforcement agency, and, if the attorney general  
7 is the one investigating, the county attorney, of a complaint  
8 that is not false and not frivolous. The bill requires the  
9 county attorney to bring an action in district court against an  
10 employer for a violation in the county where the unauthorized  
11 alien employee is or was employed by the employer. The bill  
12 provides that such an action must be expedited by the court.

13 The bill provides that for a first violation, the court  
14 must order the employer to terminate the employment of all  
15 unauthorized aliens and to submit a signed sworn affidavit  
16 to that effect or face suspension of business licenses by  
17 appropriate agencies. The court will also order a three-year  
18 probationary period for a knowing violation or a five-year  
19 probationary period for an intentional violation by an  
20 employer. For a knowing violation, the court may also  
21 order the suspension of the employer's business licenses  
22 by appropriate agencies for up to 10 business days, after  
23 considering certain factors. For an intentional violation,  
24 the court must order the suspension of the employer's business  
25 licenses by appropriate agencies for at least 10 business days,  
26 after considering certain factors. The bill provides that for  
27 a second violation, defined as a violation occurring during a  
28 probationary period for a previous violation, the court must  
29 order the permanent revocation of the employer's business  
30 licenses. The bill directs the attorney general to maintain an  
31 online database of first-time offenders.

32 The bill provides that the district court can only consider  
33 a determination by the federal government in determining the  
34 immigration status of an alleged unauthorized alien employed by  
35 an employer. The bill provides that a determination of lawful



1 status by the federal government will create a rebuttable  
2 presumption of the employee's lawful status, as well as a  
3 rebuttable presumption that an employer did not knowingly or  
4 intentionally employ an unauthorized alien. The bill provides  
5 that an employer who establishes that the employer complied in  
6 good faith with 8 U.S.C. §1324a(b) establishes an affirmative  
7 defense that the employer did not knowingly or intentionally  
8 employ an unauthorized alien. The bill provides that an  
9 employer is considered to have complied with the requirements  
10 of 8 U.S.C. §1324a(b), notwithstanding an isolated, sporadic,  
11 or accidental technical or procedural failure to meet the  
12 requirements, if there is a good-faith attempt to comply with  
13 the requirements. The bill provides an employer with an  
14 affirmative defense of entrapment if certain elements are met.

15 The bill requires an employer hiring a new employee to  
16 verify the employee's employment eligibility through the  
17 federal e-verify program. The bill requires the employer  
18 to keep records of the verification for the duration of the  
19 employee's employment or three years, whichever is longer. The  
20 bill requires an employer receiving an economic development  
21 incentive from a state government entity to register with the  
22 federal e-verify program. The bill provides that an employer  
23 who does not comply with the requirement must repay all moneys  
24 received for the economic development incentive. The bill  
25 provides an employer the right to appeal a determination of  
26 noncompliance, and does not require repayment until a final  
27 determination of noncompliance is made. The bill directs the  
28 attorney general to request from the United States department  
29 of homeland security a list of employers registered with the  
30 e-verify program every three months. The bill directs the  
31 attorney general to make the list available on the attorney  
32 general's internet site.

33 IMMOBILIZATION OR IMPOUNDMENT OF VEHICLES. The bill  
34 requires a peace officer to immobilize or impound a vehicle if  
35 the officer determines that the driver, in furtherance of the

1 illegal presence of an alien in the United States and while  
2 violating another criminal offense, is transporting or moving  
3 or attempting to transport or move an alien in the vehicle if  
4 the person knows or recklessly disregards the fact that the  
5 alien has come to, has entered, or remains in the United States  
6 illegally. The bill requires a peace officer to immobilize or  
7 impound a vehicle if the officer determines that the driver is  
8 concealing, harboring, or shielding or attempting to conceal,  
9 harbor, or shield from detection an alien in the vehicle if  
10 the person knows or recklessly disregards the fact that the  
11 alien has come to, entered, or remains in the United States  
12 illegally. The bill provides definitions.

13 ENFORCEMENT OF IMMIGRATION LAWS. The bill creates new Code  
14 chapter 823, relating to enforcement of immigration laws.  
15 The bill prohibits officials and agencies of this state or  
16 its political subdivisions from restricting or limiting the  
17 enforcement of the federal immigration laws to less than the  
18 full extent permitted by federal law. The bill requires law  
19 enforcement officials and law enforcement agencies of this  
20 state or its political subdivisions to reasonably attempt to  
21 determine the immigration status of a person involved in a  
22 lawful contact where reasonable suspicion exists regarding the  
23 immigration status of the person, except if the determination  
24 may hinder or obstruct an investigation. The bill stipulates  
25 that a law enforcement official or agency cannot solely  
26 consider race, color, or national origin when implementing  
27 these provisions, except as permitted by the United States  
28 or Iowa constitution. The bill specifies that a person is  
29 presumed to be lawfully present if the person provides certain  
30 documentation. The bill provides that if a person is convicted  
31 of a violation of a state or local law, on discharge from  
32 imprisonment or on the assessment of any monetary obligation  
33 imposed, the United States immigration and customs enforcement  
34 or the United States customs and border protection must be  
35 immediately notified. The bill authorizes a law enforcement

1 agency to securely transport an unlawfully present alien to  
2 a federal facility. The bill prohibits, except as provided  
3 in federal law, officials and agencies of this state and its  
4 political subdivisions from being prevented or restricted from  
5 sending, receiving, or maintaining information relating to  
6 the immigration status of an individual or exchanging that  
7 information with another governmental entity for certain  
8 official purposes.

9 The bill allows a person who is a legal resident of this  
10 state to bring an action in district court to challenge  
11 officials and agencies of the state and its political  
12 subdivisions that adopt or implement a policy that limits or  
13 restricts the enforcement of federal immigration laws to less  
14 than the full extent permitted by federal law, and provides for  
15 a civil penalty. The bill provides for indemnification of law  
16 enforcement officers against actions brought under new Code  
17 chapter 823, except if the officer has been adjudged to have  
18 acted in bad faith. The bill stipulates that new Code chapter  
19 823 is to be implemented consistent with federal immigration  
20 law protecting the civil rights of all persons and respecting  
21 the privileges and immunities of United States citizens.

22 IMPLEMENTATION OF ACT. The bill provides that the bill  
23 must be implemented in a manner consistent with federal laws  
24 regulating immigration, protecting the civil rights of all  
25 persons, and respecting the privileges and immunities of United  
26 States citizens.

27 The bill may include a state mandate as defined in Code  
28 section 25B.3. The bill makes inapplicable Code section 25B.2,  
29 subsection 3, which would relieve a political subdivision from  
30 complying with a state mandate if funding for the cost of  
31 the state mandate is not provided or specified. Therefore,  
32 political subdivisions are required to comply with any state  
33 mandate included in the bill.